

OLC 79-3230

21 November 1979

MEMORANDUM FOR: See Distribution

FROM:

Chief, Legislation Division

SUBJECT: H.R. 5722; Federal Government
Mileage Allowance, Per Diem, etc.

1. Subject bill, as it would relate to CIA, is an attempt to amend Sections 5702 and 5704 of Title 5 of the United States Code. (U/IUO)

2. These sections, in conjunction with Section 5707, provide the authority under which United States Government employees are reimbursed for mileage accrued when personally owned vehicles are used for official Government business (Section 5704) and under which employees are provided with both domestic and foreign travel per diem. The current sections specify sum certain dollar amounts for reimbursement. (U/IUO)

3. H.R. 5722 would remove the present statutory dollar limitations, replacing them with a scheme whereby the Administrator of the General Services Administration (GSA) would, for CONUS travel, conduct an annual survey of the expenses and submit a report of his findings to the Congress. The amounts specified in the report for per diem would become effective unless either House disapproved them within 30 days of the date on which the report was submitted.

4. For travel outside the CONUS, the per diem rate would be determined, by locality, by the President or his designee. (U/IUO)

5. For reimbursement in excess of per diem, the Administrator or his designee will prescribe conditions under which such payment may be made. (U/IUO)

6. The bill treats mileage reimbursement as it does the aforementioned items in that no specific sums are to be cited in statute, but rather are to be determined by the Administrator of GSA. H.R. 5722 has been referred to the House Government Operations Subcommittee on Government Activities and Transportation, which has requested comments from various Executive Branch Agencies, not including CIA. Should you have negative comments, however, we are free to offer our views to the Subcommittee.

7. Comments on this bill, if any, should be addressed to of the Legislation Division by close of business 4 January 1980. (U/IUO)

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96TH CONGRESS
1ST SESSION

H. R. 5722

To amend the Internal Revenue Code of 1954 to provide that the mileage allowance used for Federal employees shall be used for determining the mileage allowance for the deduction for trade or business expenses, and to amend title 5 of the United States Code to revise certain provisions relating to mileage and per diem expenses of Federal employees.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 26, 1979

Mr. McDONALD introduced the following bill; which was referred jointly to the Committees on Ways and Means and Government Operations

A BILL

To amend the Internal Revenue Code of 1954 to provide that the mileage allowance used for Federal employees shall be used for determining the mileage allowance for the deduction for trade or business expenses, and to amend title 5 of the United States Code to revise certain provisions relating to mileage and per diem expenses of Federal employees.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 SECTION 1. MILEAGE ALLOWANCE FOR FEDERAL EMPLOY-
2 EES TO BE USED FOR TRADE OR BUSINESS EX-
3 PENSE DEDUCTION.

4 (a) IN GENERAL.—Section 162 of the Internal Revenue
5 Code of 1954 (relating to deduction for trade or business ex-
6 penses) is amended by redesignating subsection (h) as subsec-
7 tion (i) and by inserting after subsection (g) the following new
8 subsection:

9 “(h) USE OF FEDERAL MILEAGE ALLOWANCE FOR
10 STANDARD MILEAGE RATE DEDUCTION.—The standard
11 mileage rate which may be used under this section for use of
12 a passenger automobile for the taxable year shall be the mile-
13 age allowance which is permitted to Federal employees
14 under section 5704(a) of title 5, United States Code, and
15 which is in effect for the last day of such year.”

16 (b) EFFECTIVE DATE.—The amendments made by sub-
17 section (a) shall apply to taxable years beginning after De-
18 cember 31, 1978.

19 SEC. 2. REVISIONS OF PER DIEM AND MILEAGE EXPENSES OF
20 GOVERNMENT EMPLOYEES.

21 (a) AMENDMENT OF SECTION 5702 OF TITLE 5.—

22 (1) PER DIEM.—Subsection (a) of section 5702 of
23 title 5, United States Code, is amended to read as
24 follows:

25 “(a) Under regulations prescribed under section 5707 of
26 this title, an employee while traveling on official business
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1 away from his designated post of duty, or in the case of an
2 individual described under section 5703 of this title, his home
3 or regular place of business, is entitled to per diem in an
4 amount to be determined as follows:

5 “(1) for travel inside the continental United
6 States, the Administrator of General Services shall
7 conduct annually a survey of the expenses of travel to
8 the various geographical areas within the continental
9 United States, and promptly report the results of such
10 survey to the Congress; and unless the findings of such
11 survey are disapproved by a resolution of either House
12 of Congress within thirty days of submission of said
13 survey, the expenses of travel as indicated by such
14 survey shall be the per diem allowance for travel to
15 the various geographic areas; and

16 “(2) for travel outside the continental United
17 States, a per diem allowance which shall not exceed
18 the rate established by the President, or his designee,
19 for each locality where travel is to be performed.

20 For travel consuming less than a full day, such rate may be
21 allocated proportionately.”

22 (b) EXPENSES IN EXCESS OF PER DIEM.—Subsection
23 (c) of section 5702 of title 5, United States Code, is amended
24 to read as follows:

1 “(c) Under regulations prescribed under section 5707 of
2 this title, the Administrator of General Services, or his desig-
3 nee, may prescribe conditions under which an employee may
4 be reimbursed for the actual and necessary expenses of offi-
5 cial travel when the per diem rate provided in subsection (a)
6 of this section would be less than these expenses.”.

7 (c) AMENDMENT OF SECTION 5704 OF TITLE 5.—The
8 first sentence of subsection (a) of section 5704 of title 5,
9 United States Code, is amended to read as follows:

10 “(a) Under regulations prescribed under section 5707 of
11 this title, an employee who is engaged on official business for
12 the Government is entitled to a mileage allowance for use of
13 his privately owned vehicle as determined by the investiga-
14 tion and report of the Administrator of General Services
15 under section 5707(b) of this title, instead of actual expenses
16 of transportation when that mode of transportation is author-
17 ized or approved as more advantageous to the Govern-
18 ment.”.

19 (d) AMENDMENT OF SECTION 5707 OF TITLE 5.—The
20 first sentence of paragraph (2) of section 5707(b) of title 5,
21 United States Code, is amended by striking out “which shall
22 not exceed the amounts set forth in section 5704(a) of this
23 title and”.

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